IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE THIRD DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 22303 of 2004

Between:

R.Siva Shankar Reddy, S/o.R. Malla Reddy, Fair price shop dealer, R/o. V Kottalapalli Village, Yadiki Mandal, Anantapur District.

..... PETITIONER

AND

1 The Joint Collecgtor, Anantapur Ananthapur District.
2 The Revenue Divisional Officer Anantapur Anantapur District.
3 The Mandal Revenue Officer Yadiki Mandal, Anantapur

District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ or order or direction more particularly one in the nature of writ of Mandamus declaring the proceedings of the 2nd respondent in Proceedings No.Rc.No.D1/CS/1579/2004 dt.28.10.2004 by issuing show cause notice cum suspension order pending enquiry of the petitioner Fair Price Shop authorization on fake and tale grounds and the joint Collector also refused Stay Petition in Rc.No.K4/ATP/1306/2004 on 8.11.2004 in an appeal filed by the petitioner of V.Kottalapalle Village Yadiki Mandal Anantapur District is illegal arbitrary and violation of Principles of natural justice and violation of article 14,19, and 21 of the constitution of India and consequently set aside the above said proceedings as illegal and direct the respondents herein to restore the petitioner fair price shop dealer authorization.

Counsel for the Petitioner: MR.V.L.SURENDER

Counsel for the Respondents: GP FOR CIVIL SUPPLIES

The Court, at the stage of admission, made the following :

ORDER:

Heard the learned counsel for the petitioner and learned Government Pleader for Civil Supplies, at admission stage.

This case discloses another instance of non-application of mind and exhibition of callousness or absolute carelessness in discharge of statutory function by an appellate authority, not to speak of the arbitrary exercise of powers by the appointing authority.

Petitioner has been functioning as a Fair Price Shop Dealer of V.Kottalapalli Village, Yadiki Mandal, Anantapur District. He was issued a Show Cause Notice-cum-Suspension Order, dated 28.10.2004. The main allegation against the petitioner was that he has not distributed rice to ten cardholders and sugar and kerosene oil to eleven cardholders. Petitioner preferred an appeal before the 1st respondent on 08.11.2004, together with an application for grant of stay. In the Grounds of Appeal as well as application for stay, he has elaborately pleaded that at the request of as many as ninety cardholders of the Village, the 2nd respondent had passed an order, way back on 28-08-1998, providing for distribution of commodities to them at the Government School through the department. It was also pleaded that certain cardholders, whose numbers were furnished, have in fact been distributed the commodities and their signatures were also obtained. When such were the pleadings of the petitioner, the respondent rejected the application with the following observations:

> "Upon perusing the grounds of appeal and contents of the order suspension of F.P. Shop authorization passed by the Revenue Divisional

Officer, Anantapur in the reference 2nd read above, while taking the appeal on file, the request of the appellant to grant stay is rejected".

Under the relevant provisions of the A.P. State Public Distribution System Control Order, 2001, the 1st respondent is vested with the power to entertain the appeal as well as to pass interim orders. Rejection of an application for grant of stay by making an observation that the stay application is rejected while taking the appeal on file amounts to abdication of the power and demonstrates non-application of mind.

The allegation against the petitioner is so bald that it states that certain cardholders were not supplied the essential commodities. A dealer is not supposed to supply the commodities and deliver them to the cardholders, whether or not they request or pay the cost of the same. The simplest thing for the respondents 2 and 3 was to have verified from the petitioner as to the truth or otherwise of the allegations by the said cardholders, instead of hastily coming to the conclusion that there was lapse on the part of the petitioner. This Court does not intend to go further, inasmuch as the proceedings are still pending. But it is compelled to observe that the respondents 1 and 2 have failed to exercise their powers in a proper and objective manner.

Hence, the writ petition is allowed. It is directed that the order of suspension passed against the petitioner shall stand stayed, till the disposal of the appeal by the 1st respondent. There shall be no order as to costs.

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L.NARASIMHA REDDY, J

Dated : 03rd December, 2004

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To

1 The Joint Collecgtor, Anantapur Ananthapur District.
2 The Revenue Divisional Officer Anantapur Anantapur District.
3 The Mandal Revenue Officer Yadiki Mandal, Anantapur

District.

4 2CCs to the Government Pleader for Civil Supplies, High

Court Buildings, Hyderabad. (O.U.T)

5 2CD copies.